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and
ATOMIC ENERGY

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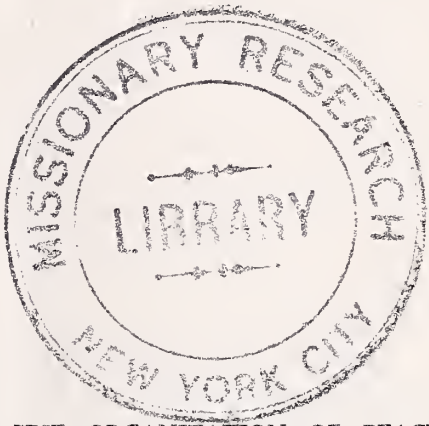
By

HERBERT L. MAY



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NARCOTIC DRUGS AND ATOMIC ENERGY

Analogy of Controls

by Herbert L. May

THE ANALOGY between narcotic drug control and atomic energy control is apparent; in both cases the problem is one of restricting the use of a commodity which has both beneficent and dangerous possibilities. In each case the control must be of the commodity itself, from raw material to ultimate use, and of such a nature that legitimate uses and supplies therefor may be assured, while diversion for illicit purposes may be guarded against. Furthermore, if control is to be effective it must be international in scope and universal in application. Such control differs from that of sugar, coffee, tea, wheat, rubber, tin, etc., in that the control of these materials is for purely economic purposes, with no illicit uses to be guarded against. The political implications of narcotic drug control and atomic energy control are likewise apparent. In the case of the former it may be recalled that in the days of the civil wars in China in the 1920's, some of the "War Lords" used the growing of the poppy and the traffic in opium as a means of financing their military operations, and later the Japanese used opium for the same purposes and, in the opinion of many observers, for the purpose of weakening the resistance of the Chinese. No elaboration of the political implications involved in the uses and control of atomic energy is necessary.

A further similarity is to be remarked; in both cases the control must operate on all of three stages: the production or mining, as the case may be, of the raw material; the processing or extraction of the essential substance; and the ultimate use. In the case of drugs the three stages are: in the field (the poppy, coca leaf, Indian hemp and the raw material for synthetic drugs); in the processing plant (extraction of crude

morphine, crude cocaine, etc.); and in the pharmaceutical laboratory (final preparation for use). In the case of atomic energy these three stages are found where the ore is mined and "concentrated"; in the processing plant (where the fissionable material is "extracted" or "manufactured"); and in the power plant or laboratory where the material is finally used. The atomic energy controller will be harassed by the same problems as the narcotic drug controller in trying to fix standards of comparison; ores, like narcotic plants, will differ in essential content in different parts of the world; the percentage of uranium in the ore, for example, will vary as does the percentage of morphine in the opium of the poppy. Likewise, factories will differ in results because of varying efficiencies of technique, equipment and personnel, whether we are dealing with opium or uranium.

Before proceeding with the analogy of drug control and its history and its possible application to atomic energy, two things should be made clear: (1) that effective control in both spheres necessarily involves some "invasion of sovereignty"; (2) that drug control is a corrective one, while the control of atomic energy must be preventive; that is, the "don't do it again" and the penalties of drug control would be insufficient protection from the danger of bomb attacks. To accomplish the necessary results a free right of inspection by an international commission is absolutely essential in the atomic energy field. In drug control, inspection by an international body is possible only by the express consent of the country involved. A special national administration inspects and supervises imports, manufacture, stocks, and every transaction all the way down to the consumer, and reports to an international body, which decides on the question of compliance with obligations; in atomic energy control the least that must be added to this is inspection by an international body.

HISTORY OF DRUG CONTROL

International narcotic drug control has a history of nearly forty years. It began with a conference in Shanghai in 1909,

followed by conferences at The Hague in 1912,[1] Geneva in 1924, and '25,[2] and again Geneva in 1931[3] and '36,[4] as successive conventions (or treaties) were found not adequate to meet existing situations. It was a case of trial and error, and the lessons thus learned can serve to save new restrictive commodity controls from some of the old pitfalls. If there is one lesson that stands out more prominently than any other it is that national controls are not effective without international control; and the latter must depend in large measure on the former. Another interesting lesson is that national and international officials work well together when they have a common objective.

METHODS OF DRUG CONTROL

The control of the traffic in narcotic drugs can be briefly described as follows: The international conventions referred to above require that use shall be restricted to medical and scientific purposes, and prescribe the line that national legislation shall take—this is, that possession is illegal without a license; a separate national administrative body must be set up; the importer, manufacturer, wholesaler, retailer, all must have licenses issued by this administrative body. The physician's prescription is the consumer's license. Every transaction, incoming and outgoing, must be recorded on special forms and reported periodically to the national administration, which is expected to inspect and check and then to prepare summary reports of the ones received by it and transmit them periodically to the international administration; furthermore, no export from, import to, or transit through a country is permitted without an

1. See the "Hague Convention of 1912".

2. See the "Geneva Convention of 1925".

3. See the "Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of July 13th, 1931". The text of this Convention, with historical and technical study, as well as the text of the Geneva Convention of 1925 and the relevant parts of the Hague Convention of 1912 are all contained in one League of Nations Document, Geneva, October 1937. Official No: C.191.M. 1937. XI.

4. See the "Convention of 1936 for the Suppression of Illicit Traffic in Dangerous Drugs".

express authorization from the government concerned. Storage in bonded warehouses and free ports is regulated. By all the above means the national administration is supposed to "keep books" on every licensee, to check export, import, manufacture, conversion, consumption and stocks and all inter-licensee transactions. The international administration keeps a check and an accounting system on each country and so achieves a world wide accounting.

THE MACHINERY OF DRUG CONTROL

The machinery of the international administration consists of (a) The Economic and Social Council of the United Nations, to which reports are to be made; (b) the Commission on Narcotic Drugs, which is a policy-making body of the representatives of fifteen governments supervising the whole field, including illicit traffic, and advising the Council; and the two administrative bodies: (c) the Drug Supervisory Body[5] which consists of four independent experts who receive binding advance estimates of each country's needs for the following year (or frame estimates for countries failing to send them) and issue statements in December of each year fixing the limits for the following year, for each country, for import, manufacture, consumption, stocks, etc.; and (d) the Permanent Central Opium Board,[6] a body of eight independent experts with semi-judicial powers, continuously watching the international traffic and applying sanctions against a country violating its obligations. For example, if a country exceeds its estimate the Board notifies all countries, and they are then obliged to cease further export to the offender nation unless and until the Drug Supervisory Body accepts and publishes supplementary estimates for the offender after having considered explanations. Here a specific sanction is agreed to in advance; the exporting countries have agreed to it by ratification of the convention, and the importing countries, whether parties to the convention or not,

5. Set up by the 1931 Convention.

6. Set up by the 1925 Convention.

are affected by it. (It is quite generally considered that the Permanent Central Opium Board and the Drug Supervisory Body may well be consolidated into one body at some future time.)

It is not necessary for the purposes of this report to discuss the ways in which control of raw materials and of prepared opium for smoking purposes differs from the control of manufactured drugs.

UNIVERSAL APPLICATION WITHOUT UNIVERSAL ACCEPTANCE

Where the raw material for an article is found in a limited number of countries and its processing is similarly limited, one has the possibility of universal application without universal acceptance of a limiting convention. For example, raw opium and coca leaves are produced in commercial quantities in but very few countries; manufacture of the finished drugs also takes place in but a limited number of countries. A restrictive convention ratified by these countries and putting a limitation on export, except under specified conditions, would necessarily affect and restrict non-producing and non-manufacturing countries. This was the situation in the case of narcotic drugs. If the source materials for the production of atomic energy are present in only a small number of countries, as is probably the case today, a similar situation exists.

INSPECTION

The most important modification of drug control necessary to make it applicable to the control of atomic energy is to include the right of inspection within a country by an international body. In the latter field it is absolutely essential that even a move toward infringement of the obligations of the convention should be discovered, immediately reported and acted upon. But while the right of inspection is not present in international drug control, a non-formalized substitute has existed for years. There is a close feeling of fraternity among national

enforcement officers engaged in the common effort to protect the world from the evils of drug addiction. Communicating directly with one another (so far as the United States is concerned this privilege was conferred by executive orders of the President), they constantly exchange facts and suspicions, and inspect for one another; they exchange black lists; country A will follow a suspect or inspect a suspicious place within its borders on the request of country B; they encourage informers with rewards, sometimes where the information is of benefit to a country other than their own. In short, they are banded together in a common effort to rid their home people and the peoples of the world of a great evil. The incentive is not only to perform obligations under a convention; there is a common human interest involved, plus the satisfaction of a successful "chase."

The informal technique described above was formalized by the Convention of 1936 for the Suppression of Illicit Traffic in Dangerous Drugs. While this Convention came into effect shortly before the outbreak of World War II, the ratifications thus far have not been of a great number. Among the objectives are the ability to see that an offender against any of the International Drug Conventions be either extradited or prosecuted wherever he is found. A similar objective would no doubt be valuable in a control scheme for atomic energy.

The idea of inspection by an international body is not one that should cause opposition because of its novelty; it exists already in that chapter of the Charter of the United Nations referring to trusteeships. Article 87 provides that "The General Assembly, and, under its authority, the Trusteeship Council, in carrying out their functions, may: (c) provide for periodic visits to the respective Trusteeship territories at times agreed upon with the administering authority." However, inspection under an atomic energy convention must differ materially from this in that it must be exercised constantly. An example of continuous inspection by an international body, arranged for in advance by a general agreement, is to be found in the Chinese Maritime Customs.

EXTENSION OF A CONVENTION TO NEW PRODUCTS

A question that has frequently been asked is: What will be the situation if a substance other than uranium is found from which fissionable material can be produced, and the convention covers only uranium? A similar question in the field of drug control has been answered. The 1931 Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs specifies and defines very carefully in Article I the drugs that are covered by the Convention. Article II provides the machinery for including newly discovered drugs capable of producing addiction. It is probable that an atomic energy convention will solve this problem in a somewhat similar manner. The possibility also exists of making the new convention a pattern for the elimination of other forms of mass-destruction warfare.

PROBLEMS OF ATOMIC ENERGY CONTROL

Plans, semi-official and unofficial, for international control are still too vague to permit of analysis, but it is clear that to prepare an acceptable international convention is going to be a most difficult undertaking in which political and economic ideologies will have much need for compromise. To illustrate this point it will suffice to consider some of the questions that will have to be answered:

I. At mines: Shall

A. An International Authority	1. Own and operate	a. mines
B. A National Commission	2. Take a lease and operate	b. ores when mined
	3. Own or lease and license operation	c. concentrates
	4. Merely license operation	

C. Private Persons: shall they own or lease and operate a, b and c, and if so shall they be required to sell concentrates to A and B

These problems are complicated by the fact that some mines have ores in which a mineral vitally needed in industry exists in appreciable quantities along with the uranium or thorium, and in others the uranium or thorium exists in small quantities as a "by-product."

II. At primary "processing" plants for the production of fissionable material from the concentrates: Shall

A. An International Authority
B. A National Commission

1. Own and operate
2. Take a lease and operate
3. Own or lease and license operation
4. Merely license operation

} Plants to produce fissionable material

C. Private Persons: shall they own or lease and operate plants to produce fissionable material, and shall they be required to sell the materials to A and B

and

IIa. Is fissionable material susceptible of effective denaturing to prevent its rapid conversion into explosives, and if so: Shall

1. All fissionable material be denatured
2. Some be retained readily adaptable for explosives

III. Use of fissionable material:

Explosive: Shall

A. Use be prohibited
B. Allowed for (1) Research
(2) For manufacturing into atomic weapons
a) for use by the Security Council
b) Possession by a State under Security Council regulations

Denatured (to be used for peaceful purposes, such as the production of power and heat): Shall

A. An International Authority
B. A National Commission
C. Private Persons

1. Own and operate
2. Take a lease and operate
3. Own or lease and license use
4. Sell the material and license use

The International Authority could be a commission, or a corporation all the stock of which would be owned by governments.

In considering the above questions the distinction between the different license controls should be kept in mind: licensing by a government agency implies public control, whereas if a private person issues a license (for example, under a patent), the control is largely at his will with little element of public interference.

INTERNATIONAL OR NATIONAL MONOPOLY

It will be seen from the above that one of the possibilities of control is an international monopoly. Such a plan would naturally raise questions of its acceptance by governments, providing as it does for what would almost amount to a foreign enclave within a country, owning and operating a large plant or plants with hundreds of employees, and raising political, financial, and labor relations problems not easily solved. In the field of narcotic drug control an international monopoly was never seriously considered, although during discussions preliminary to the 1931 Conference on Drug Limitation there were references to the possibility of such a monopoly under the control of the League of Nations. On the other hand, national monopolies were seriously discussed at the 1931 Conference; no agreement was arrived at but the following recommendation was included as No. IV in the Final Act.

> "The Conference
>
> Recommends that Governments should consider the desirability of establishing a State monopoly over the trade in, and, if necessary, over the manufacture of, the drugs covered by the Convention signed on this day's date."

(The German delegation stated that it could not accept this recommendation)

If one could hazard an estimate of American public opinion and Soviet official opinion, it would seem that national operating commissions with international supervision and inspection

would be more acceptable than international operating commissions. One cannot but recall the opposition aroused in certain communities in the United States to the location within their borders of even such a beneficent organization as the United Nations.

Some countries such as Spain, Russia and British India have drug monopolies; British India has restricted poppy cultivation to licensees; and state monopolies of prepared opium for smoking purposes have been a common feature in the Far East.

IMPORTANCE OF NATIONAL COMMISSIONS

The experience of drug control proves the importance of the role that national commissions play in international commodity control. In the problems facing international atomic energy control outlined above, national commissions may play a major or minor part. But even if control goes so far as an international organization owning and operating everything down to the eventual sale or lease of, or licensing the use of, denatured fissionable material, a national commission would be useful for liaison purposes, for aid in inspection, as a protection to the domestic economy and as a check on the validity of international practices. If the national commission should own, lease, operate or license, it would obviously have a major role in addition to those just mentioned.

QUOTAS

The relation between the supply of material and the demand for it raises the question of assignment of quotas to different countries. At the 1931 Conference on Drug Limitation a draft convention based on the quota system was presented and debated for several weeks.[7] It was finally abandoned largely for the reasons that the countries already in the field could not agree either on a division or on a basis for assigning quotas to newcomers that was satisfactory to anyone. It is quite pos-

7. See "Report to the Council on the Plan drawn up by the Advisory Committee", Drug Limitation Conference, 1931, League of Nations. Conference Documents, Vol. I and Annex 7 (a) in same volume.

sible that a quota system may be written into an atomic energy convention; but it is obvious that its successful operation will depend upon the possibility of agreement among the members of the quota fixing body.

POSSIBLE ANALOGIES

Until some of the questions outlined above have been answered it will be impossible to draw a diagram showing analogies between drug and atomic energy control except in the most general terms. That is what is attempted below.

COMPARATIVE CONTROL DIAGRAM

International

Narcotic Drugs	*Atomic Energy*
Economic and Social Council (U.N.) (Receives reports and makes recommendations to Governments)	Security Council (U.N.) (Would receive reports and take action)
Supervisory and Advisory	*Advisory*
Commission on Narcotic Drugs (Makes recommendations to Council)	Atomic Energy Commission (Would make recommendations to Council)
Administrative	*Administrative*
*Drug Supervisory Body (Controls legal demands) *Permanent Central Opium Board (Controls legal use and traffic and imposes sanctions on Governments for violations) (Inspection within a country by consent only)	An International Atomic Energy Authority (Would own or lease or operate or license; or merely supervise similar functions; exercised by National Commissions) (Would exercise free right of inspection within a country)

National

Special Administration	*A Commission*
(Regulates and supervises all activities in accordance with international conventions and national laws. Except as provided by these, possession of material is illegal)	(Would regulate and supervise all activities in accordance with international conventions and national laws. Except as provided by these, possession of material would be illegal) (If International Authority does not, then National Commission would own or lease or operate or license under supervision of International Authority)

*Independent bodies not subject to control of Council or Commission.

DRUGS AND "DISARMAMENT"

This report would be incomplete without a reference to a document prepared at the Conference for the Reduction and Limitation of Armaments in 1933 entitled, "Analogies Between the Problem of the Traffic in Narcotic Drugs and that of the Trade in and Manufacture of Arms."[8] A detailed consideration of this document is beyond the limits of this report. Suffice it to say that the main parts thereof as applicable to atomic energy have been summarized herein.

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8. League of Nations, Conference Document, No. Conf. D. 159.